REMARKS

General remarks

Claims 1-15, 17, 18, 20, 21, 23, 28, 32, 34-36, 39, 40, 51-53, 63, 65, 70-73, 76-78, 92, 106, 144-147 are all the claims pending in the application.

Applicant herein cancels claims 16, 24, 25, 27, 33, 44, 48, and 49.

The independent claims have been amended to include requirements that generally define a system in which the capture of requested video content, as it is broadcasted, is performed at the server side; downloaded to the client side; and played back under control of the server side. The foregoing statement should not be interpreted as an express limitation on the claims, but is meant only to provide the examiner with an overview of applicant's approach to overcoming the prior art rejections. The subject matter of claim 24 has been added to claim 23, and the subject matter of claim 33 has been added to claim 32. Claims 24 and 32 have been canceled.

The claim amendments contain no impermissible new matter, and are respectfully submitted to be fully supported in the originally filed specification.

Claim objections

Claims 63, 76, and 145 are objected to because they depend from a cancelled claim. These claims are herein amended to overcome the examiner's objection, and applicant respectfully requests the examiner to withdraw this objection.

Prior art rejections

Claims 1-4, 7-13, 17, 23, 32, 44, 48-49, 51-53, 65, 70-73, 76-78, 106 and 144-147 are rejected under 35 U.S.C. § 102(e) as being anticipated by Eyer. This rejection encompasses all of the independent claims. Applicant respectfully traverses this rejection, first with respect to independent claim 1.

Independent claim 1 requires that the capture of the content data be performed by a remote capture system. Eyer does not teach or suggest such a feature. All of the capture that takes place of content as it is broadcasted, in Eyer, is performed by either copying temporary files from one location to another, or by designating temporary files for non-deletion. For

confirmation of this point, the examiner may refer to column 10, line 64 through column 11, line 3. Although Eyer does provide for retrieval of content that is no longer being broadcasted, this retrieval taking place from a media database, it is not the same as remotely capturing anything.

In other words, the remote retrieval of previously stored media from the media database in Eyer does not fulfill the express requirements in the claim that relate to remote capture of information as it is broadcasted, as mentioned in claim 1.

Claim 1 also includes requirements that relate to the capture system downloading data defining a graphical user interface, based on the record of the content stored in the storage device of the user device, and also that the graphical user interface is operable to communicate inputs from the user to the server side of the content delivery system, whereby a request from the user to retrieve and playout content stored in the storage device of the user device is provided to the server side of the content delivery system. Moreover, the playout of the content stored in the storage device is enabled under control of the server side of the content delivery system.

Eyer does not teach or suggest any system in which the playout of locally stored content is performed under control of the server side of the content delivery system. To the contrary, Eyer contemplates that locally stored content will be played out under control of the devices at the client side.

Although Eyer does teach a system in which content can be locally stored on the hard drive, it lacks several important requirements of independent claim 1, as now amended. Namely, the content that is captured in Eyer is captured on the client side and not remotely on the server side. In addition, the playback of content stored locally in Eyer, is performed under control of the client side and not under control of the server side. Because of these deficiencies of fire, the several important objectives and advantages of applicant's invention, as mentioned in the originally filed specification, cannot be achieved.

Applicant therefore respectfully requests the examiner to find that independent claim 1, as now amended, patentably distinguishes over the teachings of Eyer. Accordingly, applicant respectfully requests the examiner to withdraw the rejection of independent claim 1 as being anticipated by Eyer, and also the rejection of dependent claims 2-4, 7-11, 12, 13, 17, 23, and 32.

For similar reasons, applicant also respectfully requests the examiner to withdraw the rejection of independent claims 51, 70, and 106, as well as their dependent claims 52, 53, 65, 71-73, 76-78, and 144-147.

Claims 5, 6, 20, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyer in view of Novak.

All of these claims depend from independent claim 1.

Applicant respectfully submits that Novak does not compensate for the already mentioned deficiencies of Eyer vis-à-vis claim 1, as now amended. Novak provides for local capture and editing of content, and explains how to send the edits of the content to another viewer without actually sending the content.

The edits to the content are captured and sent without the content being sent, so that another viewer can apply the same edits to their content and achieve the same desired result.

Novak however lacks any teaching or suggestion of remote capture of content as is being broadcast, and also lacks any teaching or suggestion of playback of locally stored content under control of the server side.

Even taken together, for what they would have meant to an artisan of ordinary skill, the combined teachings of Eyer and Novak would not have led such a person to the subject matter of independent claim 1, much less the more specific subject matter of dependent claims 5, 6, 20, or 21.

Applicant therefore respectfully requests the examiner to withdraw this rejection of claims 5, 6, 20, and 21.

Claims 18 and 34-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyer in view of Hendricks.

Applicant respectfully submits that Hendricks does not compensate for the above identified deficiencies of Eyer. Hendricks seems to contain relevant subject matter relating to only the generation of menus, and lacks any teaching or suggestion that would have enabled the artisan of ordinary skill to modify Eyer in such a manner as to achieve the express requirements of independent claim 1. It therefore follows, that such a person would not have achieved the

subject matter of dependent claims 18, or 34-36. Applicant therefore respectfully requests the examiner to withdraw this rejection.

Claims 25, 27, 28, 39, 40, 63, and 92 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eyer in view of De Bey. The combined teachings of these two documents, however, seem to lack the requirement for remote capture and also the requirement for server side control of locally stored playback. Applicant therefore respectfully requests the examiner to withdraw this rejection as well. It is noted that claims 63 and 92 depend respectively from independent claims 51 and 70. Even so, applicant respectfully submits that the arguments presented above in the context of independent claim 1 can be seen to apply by analogy to the rejection of these two claims.

Conclusion and request for telephone interview

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time, if necessary. Unless a check is attached, any fee due under 37 C.F.R. § 1.17(a) is being paid via the USPTO Electronic Filing System, or if not paid through EFS, the USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

/Kelly G. Hyndman 39,234/
Kelly G. Hyndman
Registration No. 39,234

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: June 27, 2008